

# Fiscal Services Division

## Legislative Services Agency

### Fiscal Note

---

HF 2269 - Cemetery Merchandising (LSB 5203 HV)

Analyst: Ron Robinson (Phone: (515) 281-6256) (ron.robinson@legis.state.ia.us)

Fiscal Note Version - New

---

#### **Description**

House File 2269 provides for the regulation of business entities, including businesses providing cemetery and funeral merchandising and services, business promotions and contracts, and businesses providing continuing care or adult congregate living services, and providing penalties.

Section 26 of the Bill amends Section 523B.11, Code of Iowa, and provides that a seller of a business opportunity who willfully violates the requirements for disclosure or for the contents of a business opportunity contract who provides misleading advertising, who willfully violates a rule, or who willfully violates an order of which the person has notice, upon conviction, is guilty of a Class "D" Felony. The amendment to Section 523B.11, Code of Iowa, clarifies current law.

Section 46 of the Bill amends Section 523D.8, Code of Iowa, by eliminating the requirements that a person act willfully and knowingly to be guilty of violating Chapter 523B.11 or a rule adopted or order entered pursuant to that Chapter. Chapter 523B involves agreements to provide congregate or continuing care. The Section also now provides a violation penalty, which is determined by the degree of the fraudulent practice as established in Chapter 714, Code of Iowa. The penalty will now range from a simple misdemeanor to a Class "C" Felony, rather than the current aggravated misdemeanor.

#### **Assumptions**

1. The amendment to Section 523B.11, Code of Iowa, clarifies current law.
2. The Iowa Justice Data Warehouse shows that there were no convictions in FY 2003 for current violations of Chapter 523B, Code of Iowa.
3. The Iowa Justice Data Warehouse shows that there were no convictions in FY 2003 for current violations of Chapter 523D, Code of Iowa.
4. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
5. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
6. The law will become effective July 1, 2004. A lag of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
7. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court and Community-Based Corrections (CBC) information. Conviction and penalty information is based on FY 2003 data.
8. The changes to the provision concerning the seller of a business opportunity will lead to no additional convictions under HF 2269.
9. There is no readily available data with which to predict the number of violations involving agreements to provide congregate or continuing care that will be issued under HF 2269.

### **Correctional Impact**

House File 2269 will have no significant correctional impact.

### **Fiscal Impact**

The fiscal impact of HF 2269 cannot be determined due to insufficient information; however, the impact is not expected to be significant.

To the extent that additional violations are prosecuted due to the changes to Chapter 523D, Code of Iowa, the following are average State costs associated with imposing criminal penalties for one conviction:

- Simple misdemeanors: Costs range from \$14 (court costs) to \$300 (court costs plus indigent defense).
- Serious misdemeanors: Costs range from \$100 (court costs) to \$5,000 (court costs including a jury, indigent defense, prison, and parole).
- Aggravated misdemeanors: Minimum is \$1,100 (court costs and probation). Maximum is \$5,800 for a crime against persons and \$4,600 for crimes not against a person. Includes court costs with a jury, prison, parole, and indigent defense.
- Class D Felony: Minimum is \$1,700 (court costs and probation). Maximum for person crimes is \$12,000 and \$8,100 for crimes not against a person (court costs with a jury, indigent defense, prison and parole).
- Class C Felony: Minimum is \$3,000 (court costs and probation and indigent defense). Maximum for person crimes is \$23,000 and \$11,000 for crimes not against a person (court costs with a jury, prison, parole, and indigent defense).

### **Sources**

Department of Commerce, Insurance Division

Department of Human Rights, Criminal and Juvenile Justice Planning Division

Dennis C Prouty

---

March 3, 2004

---

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

---